A new era of administrative competition law enforcement in Ireland

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Introduction

Ireland has undergone a significant shift in how it enforces its competition laws. Historically, Ireland was almost unique in Europe for relying on criminal prosecution to sanction competition law violations (which, as discussed in this article, was limited in practice to hardcore cartel cases). This stood in contrast to the administrative enforcement model used by the EU and most EU Member States, where competition authorities themselves impose fines on companies.[2] In 2022, however, Ireland enacted legislation to introduce an administrative enforcement regime.[3] This article contextualises the introduction of this new administrative

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2 See, eg, the French Commercial Code (Code de commerce) (FCC) 2010, as amended; Act Against Unfair Competition (Gesetz gegen den unlauteren Wettbewerb, UWG) 2010, as amended.

3 Competition (Amendment) Act 2022.

enforcement framework by reference to past criminal law enforcement efforts, and discusses its implications for future Irish competition law enforcement.

Ireland's historical approach: criminal enforcement of cartels

For decades, Ireland's ability to enforce fines for breaches of competition law was anchored in its criminal justice system. The Competition Act 2002, as enacted,[4] mirrored EU competition law in substance – prohibiting anti-competitive agreements, akin to Article 101 of the Treaty on the Functioning of the European Union (TFEU), and abuse of dominance, akin to Article 102 TFEU.

However, unlike the European Commission and many national competition authorities (NCAs), the Irish competition law enforcement agency – previously the Irish Competition Authority and now the Competition and Consumer Protection Commission (CCPC) – did not have the power to impose fines on companies for violations of Irish competition law. Instead, the Competition Authority referred serious infringements (with a focus on cartels) to the Director of Public Prosecutions (DPP) for prosecution through the courts as criminal offences or initiated civil proceedings in which fines could not be imposed.[5]

Ireland's criminal enforcement model yielded modest results. In the period up to 2022, the DPP had prosecuted a handful of notable cartel cases with few leading to substantial fines or jail time. For example, the *Citroën Dealers Association* cartel case[6] (investigated in the 2000s) resulted in 14 convictions (six car dealerships and eight individuals pleaded guilty to price-fixing). The fines imposed in that case were low by international standards – the largest single fine on a company was €80,000, and some individuals received only suspended jail sentences. In another major investigation, the *Galway Home Heating Oil* cartel,[7] 18 convictions were secured (ten companies and eight individuals) for fixing fuel prices. However, the penalties were modest: most companies were fined in the range of €3,500 to €15,000, and one executive received a two-year prison term fully suspended (he was fined €30,000).

The process of securing those outcomes was often protracted – the Competition Authority (now CCPC) investigations took years, followed by referrals to the DPP

4 Competition Act 2002 replaced the Competition Act 1991 which gave the Competition Authority (now CCPC) both civil and criminal enforcement powers.

5 Competition Act 2002 s 11, as amended.

6 'Members of Citroën Dealers Association cartel convicted of price fixing' (CCPC) www.ccpc.ie/business/enforcement/criminal-enforcement/criminal-court-cases/citroen-dealers-cartel/ accessed 24 April 2026.

7 'Members of Home Heating Oil Cartel Convicted of Price Fixing' (CCPC) www.ccpc.ie/business/enforcement/criminal-enforcement/criminal-court-cases/home-heating-oil-cartel/ accessed 24 April 2026.

and lengthy court proceedings. The *Citroën* case,[8] for example, involved behaviour dating back to the mid-1990s but only concluded with guilty pleas and sentences in 2008–2009. The *Galway Home Heating Oil* case[9] spanned over a decade (with raids in 2001 and a final verdict in 2012).

And while Irish courts did show a willingness to sanction cartels within the constraints of the system – for instance, judges warned that someday, cartelists may face actual prison time and in one case, a defendant who failed to pay a competition-law fine was briefly jailed[10] – the track record of Irish enforcement was characterised by few cases, low judicial fines and almost no incarcerations. Over 25 years (1996–2021), the total fines on companies for competition infringements amounted to only around €323,000.[11]

All these factors contributed to a low enforcement rate in Ireland. Moreover, there was a significant enforcement gap: many minor violations simply went unpunished. And while the Competition Authority and later the CCPC could also bring a civil action to the Circuit or High Court to enact measures like injunctions or declarations to stop the illegal behaviour, those methods imposed no monetary punishment.[12]

As time went on, Ireland's approach was unsurprisingly seen as out of step with the rest of Europe. Other EU countries had long since empowered their competition agencies to impose administrative fines,[13] resulting in a higher volume of enforcement decisions and larger penalties. Ireland's cumbersome process and light penalties risked making it a weak link in EU-wide competition law enforcement. This discrepancy became untenable once the EU enacted the ECN+

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8 'Members of Citroën Dealers Association cartel convicted of price fixing' (CCPC).

9 'Members of Home Heating Oil Cartel Convicted of Price Fixing' (CCPC).

10 'Members of Citroën Dealers Association cartel convicted of price fixing' (CCPC), see also Frances Murphy and Tom Bainbridge, 'Imprisonment of executive in Ireland for non-payment of antitrust fine highlights the growing risk of jail time for price fixing' (Jones Day, 4 December 2009) www.lexology.com/library/detail.aspx?g=e87737e3-c870-4025-867e-ef926b89d83a accessed 24 April 2026.

11 Houses of the Oireachtas, Bill Digest – Competition (Amendment) Bill 2022, https://data.oireachtas.ie/ie/oireachtas/bill/2022/12/eng/digest/billdigest-competition-bill-final-070222-185415.pdf accessed 24 April 2026.

12 Competition Act 2002 s 14A, as amended, empowers the CCPC to bring civil proceedings in the Irish High Court or Circuit Court against undertakings suspected of breaching competition law (ss 4 or 5 of the 2002 Act, or Arts 101 or 102 TFEU). Specifically, s 14A allows the CCPC to seek a declaration that a particular agreement, decision, or behaviour is anti-competitive and unlawful on the basis it violates ss 4 or 5 of the Act, or Arts 101 or 102 TFEU, or to apply for an injunction to stop a company from continuing with anti-competitive practices. Where the court finds abuse of a dominant position, they may require the undertaking to discontinue the abuse or adopt measures which negate its dominant position and secure that adjustment.

13 See, eg, French Commercial Code (Code de commerce) (FCC) 2010, as amended. Act Against Unfair Competition (Gesetz gegen den unlauteren Wettbewerb, UWG) 2010, as amended.

Directive (EU 2019/1).[14] The stage was thus set for a major reform of competition enforcement in Ireland.

The 2022 reform: introducing an administrative enforcement regime

In June 2022, Ireland passed the Competition (Amendment) Act 2022 (the '2022 Act'), overhauling its competition law enforcement landscape. This long-anticipated legislation (effective since late 2023) transposed the ECN+ Directive and granted the CCPC new powers to enforce competition law through an administrative process. The CCPC can now itself – within the administrative enforcement framework – decide that a company has infringed the law and impose financial sanctions without a criminal trial. This is a fundamental shift from the former regime. As CCPC Chair, Brian McHugh, noted, the authority 'now [has] those powers' it had long argued for and can 'impose administrative financial sanctions for breaches of Irish and EU competition law, subject to Court confirmation'.[15]

Under the new regime, competition law breaches in Ireland may be pursued in three ways: (1) criminal prosecution; (2) administrative enforcement by the CCPC (using its new powers to levy fines and remedies); or (3) civil proceedings in court (seeking injunctions or declarations of illegality). The CCPC has discretion to choose the route on a case-by-case basis, guided by factors like the nature of the violation and the public interest.[16] Notably, all forms of anti-competitive conduct can now be addressed administratively (including cartels).[17]

Some key features of Ireland's new administrative enforcement regime include:

- *Monetary fines on companies*: the CCPC can impose administrative fines up to €10m or ten per cent of an undertaking's worldwide turnover (whichever is greater) for competition law infringements.[18] This brings Ireland in line with the EU level (the European Commission and many national authorities use the ten per cent of turnover cap). Importantly, these fines are 'non-criminal' sanctions on companies – meaning a finding of infringement and fine by the CCPC does not

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14 Directive (EU) 2019/1 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market [2019] OJ L11/3.

15 'CCPC welcomes Brian Kennedy, Senior Counsel, as Chief Adjudication Officer' (CCPC, 28 March 2025) www.ccpc.ie/business/ccpc-appoints-brian-kennedy-senior-counsel-as-chief-adjudication-officer/ accessed 24 April 2026.

16 'Guidance Note on the CCPC's Choice of Enforcement Regime for Breaches of Competition Law' (CCPC, 1 August 2023) www.ccpc.ie/business/wp-content/uploads/sites/3/2023/07/CCPC-Guidance-Note-on-Choice-of-Enforcement-Regime.pdf accessed 24 April 2026.

17 'Guidance Note on the CCPC's Choice of Enforcement Regime for Breaches of Competition Law' (CCPC, 1 August 2023) p 16.

18 Competition (Amendment) Act 2022 s 15AC.

result in a criminal conviction or record. It is an administrative penalty, subject to appeal without the stigma of criminality. However, the fines can be substantial and are explicitly intended to be 'effective, proportionate and dissuasive'.[19]

- *Lower burden of proof*: in administrative proceedings, the standard of proof is the civil standard ('balance of probabilities'), not the criminal 'beyond a reasonable doubt' threshold.[20] This crucial change is likely to make enforcement easier. Practically, this should enable the authority to pursue more cases – including those that might have been borderline for a criminal trial. This is expected to result in a substantial increase in competition law enforcement.
- *Independent Adjudication Officers*: to ensure fairness in the administrative process, the 2022 Act provides for Adjudication Officers (AOs) who will decide cases at arm's length from the CCPC's investigative staff.[21] The CCPC nominates a panel of AOs (experienced lawyers), who are formally appointed by the Minister for Enterprise and operate with quasi-judicial powers. An AO can conduct hearings, summon witnesses, take evidence on oath and issue a written decision determining whether the law was infringed and what sanctions or remedies to impose.[22] In essence, the AO functions like a trial judge in the administrative context, albeit within the CCPC's overall enforcement framework. In March 2025, Ireland appointed its first Chief Adjudication Officer (a senior barrister) to lead this new adjudicative function.[23]
- *Court confirmation of decisions*: A notable check-and-balance in Ireland's regime is that no administrative fine or penalty takes effect until confirmed by the High Court. After an AO issues a decision (for example, finding Company X infringed section 4 of the Act and imposing a €5m fine), the affected party/parties will have the opportunity to appeal that decision to the High Court. Even if no appeal is lodged, the CCPC must apply to the High Court for confirmation of the AO's decision and any sanctions.[24] The High Court will review the decision and can refuse confirmation if it finds legal or procedural defects. This 'dual-step' process was designed to ensure constitutional robustness, given the severity of fines imposed by a non-judicial body. It makes the Irish system somewhat quasi-administrative.[25] By contrast, in the EU or UK, a competition agency's decision is immediately binding (subject to appeal but not requiring

19 Directive (EU) 2024/1226 on the definition of criminal offences and penalties for the violation of Union restrictive measures and amending Directive (EU) 2018/1673 [2024] OJ L2024/1226.
20 Competition Act 2002 s 3(3), as amended.
21 Competition (Amendment) Act 2022 s 15P.
22 Competition (Amendment) Act 2022 s 15X.
23 *See* n 19.
24 Competition Act 2022 s 15X, as amended.
25 Competition Act 2022 s 15X, as amended.

pre-confirmation). The Irish approach thus builds in judicial oversight at the end of the administrative process.

- *New EU modelled procedure*: The enforcement procedure under the 2022 Act resembles the familiar EU Commission process in many respects. Once the CCPC's investigation finds evidence of a potential infringement, the CCPC will issue a Statement of Objections (SO) to the parties, outlining the alleged violation and evidence.[26] The companies can reply in writing and will be granted access to the CCPC's file of evidence at that stage. After considering any defences, the CCPC may refer the case to an AO for a formal hearing. The AO can conduct an oral hearing where the parties (and witnesses) give evidence and are subject to questioning – much like a trial but less formal and without a jury. During the investigation, where they suspect conduct will cause serious and irreparable harm to competition, the AO can issue prohibition notices to stop the infringing behaviour or prevent an infringement. If they find, on the balance of probabilities, that the law was infringed (and that the undertaking 'intentionally, recklessly or negligently'[27] did so), the AO can impose sanctions including:[28]
  - Administrative fines on the undertaking (up to €10m or ten per cent worldwide turnover).
  - Periodic penalty payments to compel compliance (eg, daily fines for each day a company fails to comply with a structural or behavioural remedy).
  - Structural or behavioural remedies, such as requiring a company to divest assets, licence technology or cease certain conduct. For example, a dominant firm abusing its position might be ordered to grant competitors access to an essential facility, or a cartel might be ordered to dissolve a joint venture.
- *Binding commitments*: the Act allows cases to be resolved by settlement, whereby the company acknowledges its infringement, voluntarily agrees to certain measures to address the competition concerns, subject to acceptance by the CCPC and confirmation by an AO and the High Court. The introduction of these flexible remedies means the CCPC can craft solutions to halt anti-competitive conduct and prevent its recurrence, in addition to punishing past behaviour.
- *Leniency and immunity programmes*: with dual enforcement paths, Ireland now uniquely operates two leniency programmes: (a) the long-standing Cartel Immunity Programme (CIP), run jointly by the CCPC and DPP, which offers immunity from criminal prosecution to the first cartel member to come forward and cooperate; and (b) the Administrative Leniency Policy (ALP) for undertakings that self-report cartels or certain vertical restraints (like resale price maintenance).

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26 Competition Act 2022 s 15X, as amended.
27 Competition Act 2002 s 15X, as amended.
28 Competition Act 2002 Pt 2D.

Under the ALP, the first company to confess participation in a cartel can receive full immunity from administrative fines, and subsequent cooperating companies may get up to 50 per cent fine reductions.[29] However, immunity under ALP does not automatically confer immunity under CIP, and vice versa. In practice, a cartel member seeking leniency in Ireland may need to apply under both regimes to cover both eventualities – one for avoiding criminal charges, one for avoiding administrative penalties. The CCPC has issued guidance on how it will handle such dual applications to ensure fairness and transparency.[30] This twin-track leniency framework is somewhat analogous to the UK, where the CMA offers immunity from fines to companies and also (in coordination with prosecutors) immunity from prosecution for individuals in cartel cases.[31] For Ireland, having an administrative leniency option is expected to encourage more companies to self-report, since not all cases will follow the criminal route.

- *Choice of enforcement route and avoiding double jeopardy*: the CCPC has clarified how it will choose between criminal and administrative enforcement in a given case. Hardcore cartels (price-fixing, market-sharing, bid-rigging, etc) can be tackled under either regime, and the decision will depend on factors such as the need for deterrence through jail time, the strength of evidence and whether individual culpability is high on the agenda. Abuse of dominance or other non-cartel violations will be addressed administratively (since they are not crimes under the Act's definitions post-2022). Importantly, once a certain route is pursued to conclusion for a given entity, the other route is foreclosed for the same matter to prevent 'double jeopardy'. For example, if the CCPC refers a cartel case to the DPP and a criminal prosecution on indictment proceeds against Company X, the CCPC cannot later impose an administrative fine on Company X for the same facts (unless the prosecution is dropped without a verdict, in which case the administrative path could be revived).[32] Conversely, if the CCPC pursues an administrative case and an AO issues a decision (or the case is settled via commitments), the CCPC cannot then switch to prosecute the company criminally.[33] This ensures that companies will not face both an administrative fine and a criminal trial for the same conduct; one enforcement mechanism will be used.

29 Competition Act 2002 s 15AI.

30 'Guidance Note on the Interaction between the Cartel Immunity Programme (CIP) and the Administrative Leniency Policy for Cartels (ALP)' (CCPC, February 2022) www.ccpc.ie/business/wp-content/uploads/sites/3/2022/02/2022.02.11-Guidance-Note-on-Interaction-CIP-and-ALP-Consultation-Draft.pdf accessed 24 April 2026.

31 Office of Fair Trading, 'Applications for leniency and no-action in cartel cases – OFT's detailed guidance on the principles and process' (OFT1495) p 22.

32 Above, n 30, p 17.

33 *Ibid.*

Implications and outlook

Ireland's adoption of administrative competition enforcement is a landmark change that is likely to have several implications.

- *Increased enforcement activity*: we can expect the CCPC to bring more cases to conclusion now that the regime is not confined to criminal enforcement for levying fines. Even medium-sized or complex cases that might have been shelved due to uncertainty of criminal proof can now be pursued administratively. The lower standard of proof and ability to impose fines directly will enable the CCPC to tackle a wider array of anti-competitive behaviours. Over time, this should lead to a greater deterrent effect than previously. We might also see the CCPC take on abuse of dominance cases more readily.
- *Higher fines and deterrence*: the era of paltry fines for cartels in Ireland is over. While it will take some years and test cases to establish the new norms, one can anticipate that fines will scale up significantly, perhaps into seven or eight figures for serious infringements (especially involving large undertakings).
- *Continued role for criminal enforcement*: although the administrative path will dominate for companies, Ireland is not abandoning criminal enforcement entirely. The CCPC and DPP will likely reserve criminal prosecution for cases where individual wrongdoing is egregious and where they believe an Irish jury would respond well (perhaps local bid-rigging conspiracies affecting taxpayers, or cases with clear evidence of fraud).[34] The threat of jail for executives remains an arrow in Ireland's quiver in the EU context. The new regime allows the CCPC to essentially 'have its cake and eat it' – they can punish a company administratively while still having the option to go after key ringleaders via the DPP. Whether they will attempt this dual approach remains to be seen; much will depend on resources and policy priorities.

Conclusion

The introduction of the administrative enforcement regime ushers in a new era of competition law enforcement in Ireland that finally aligns it with EU standards under the ECN+ Directive and enhances the deterrent effect of competition law enforcement in Ireland.

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34 Eg, the recent case of the *Director of Public Prosecutions (DPP) v Heney & Others* (Central Criminal Court, 18 December 2025) represents a significant milestone in the enforcement of competition law in Ireland. The five accused were each found guilty by a jury of engaging in an anti-competitive concerted practice contrary to the Competition Act 2002 ss 4 and 6 (as amended). The offences occurred in respect of a tender competition for the provision of publicly funded school transport services across the Southwest region of Ireland.